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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,840	10/30/2003	Rainer Weisbrodt	WSP219US	9134

7590 10/19/2005  
Simpson & Simpson PLLC  
5555 Main Street  
Williamsville, NY 14221

EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/696,840

**Applicant(s)**

WEISBRODT ET AL.

**Examiner**

Alison K. Pickard

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5,7-9,11-13,15,17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5,7-9,11-13,15,17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 5, 9, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Reid (2,859,061).

Reid discloses a sealing ring having an elastically deformable base ring 2 and a one-piece protective layer and stiffening ring 3 made of PTFE. As seen in Figures 3-6, the stiffening ring is provided at either the inner or outer edge of the base ring and has a height less than the greatest height of the base ring. The stiffening ring has a greater firmness than the base (col. 4, lines 37-38).

3. Claims 2, 3, 5, 7, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Papenguth (3,215,442)

Papenguth discloses a sealing ring having an elastically deformable base ring 33, a protective layer 24/25 covering a portion of the base, and a stiffening ring 11 at either an inner or outer circumferential edge of the base ring. The stiffening ring is firmer than the base ring and made of metal.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 7-9, 11-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheesley in view of Hobson (2,580,546).

Sheesley discloses a sealing ring having an elastically deformable base ring 23 and a stiffening ring 21 or 22 at either an inner or outer circumferential edge of the ring. the stiffening rings are firmer than the base and are made of metal or plastic. Sheesley does not disclose a protective layer over the base ring. Hobson teaches using a protective layer of PTFE over a deformable base ring of a sealing ring to provide chemical and thermal resistance. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the ring of Sheesley with the protective layer taught by Hobson to provide the seal with chemical and thermal resistance.

Regarding claims 4, 8, and 12, Sheesley does not disclose that the stiffening ring is made of stainless steel. This is a design choice. The selection of a known material based on its suitability for its intended use is not considered inventive. See *In re Leshin* 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the stiffening ring from stainless steel.

6. Claims 3, 4, 7, 8, 11, 12, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid.

Reid does not disclose that the one-piece protective layer and stiffening ring is metal, i.e. stainless steel. Using this material is considered a design choice. The selection of a known material based on its suitability for its intended use is not considered inventive. See *In re Leshin*

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125 USPQ 416 (CCPA 1960). Further, it is known that a sealing ring with a deformable base ring can be covered in a metal as evidenced by Wiener '852. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the protective layer/stiffening ring from metal, such as stainless steel as a matter of choice in design.

7. Claims 4, 8, 9, 11, 12, and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Papenguth.

Papenguth does not disclose that the metal is stainless steel (chemically resistant material). The selection of a known material based on its suitability for its intended use is not considered inventive. See *In re Leshin* 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the protective layer/stiffening ring from stainless steel.

#### ***Response to Arguments***

8. Applicant's arguments filed 4-13-05 have been fully considered but they are not persuasive.

Applicant's argument that Reid does not disclose three elements is unpersuasive. The claims are drawn to elected species 1 (Figures 1 and 2), which shows the stiffening ring and cover are one piece. Reid also discloses the ring/cover can be PTFE, which is the same "hard plastic" used for Applicant's ring/cover. As for making the ring/cover from metal, this is considered obvious (as set forth above). The selection of a known material based on its suitability for its intended use is not considered inventive. See *In re Leshin*, 125 USPQ 416 (CCPA 1960). In this case, the material needs to be chemically resistant. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use

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any known chemically resistant material, such as stainless steel. This selection is based on its intended purpose. Further, the specification does not disclose any criticality (i.e. unexpected result) with the use of stainless steel.

The arguments against Sheesley in view of Hobson are unpersuasive. Not all embodiments of Sheesley have a retainer ring 21 at the inner diameter to protect the elastomer as argued by Applicant. Further, by Hobson's teachings, "a gasket made of any suitable material and having any desired construction" would benefit from the protective jacket of Hobson. This would include Sheesley's gasket.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062. The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alison K. Pickard  
Primary Examiner  
Art Unit 3673

AP